

# Byzantine “consuetudines” in Venetian Crete

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In 1320 a fierce controversy broke out between the Latin church and the Venetian authorities of Crete. In a strong message of protest to the doge of Venice, the Latin archbishop of Crete requested that a number of issues which concerned relations with the Serenissima should be cleared up, including the question of the property of the monastery of Pala as well as the legal status of the 130 Greek Orthodox clerics dependent on the Latin archbishopric. Venice hastened to send an order to the duke of Crete to carry out an inquest into the state of affairs that had prevailed during Byzantine times (*tempore Grecorum*). The results of this investigation, which have been preserved thanks to the Venetian bureaucratic system, are of exceptional interest: firstly, because they show that Venice, in attempting to weaken the demands of the Latin archbishop, based its position on the Byzantine past, putting forward the argument that the rights of the Byzantine emperor had now been transferred to the doge; secondly, because they demonstrate that the Venetians in Crete still maintained Byzantine institutions.<sup>1</sup>

As far as the issue of the possession of the monastery of Pala was concerned, i.e., whether the monastery belonged to Venice or to the Latin church, the answer which the archbishop received was unequivocal: in Byzantine times the monastery belonged to the emperor (*fuit monasterium imperiale*), and consequently it should now belong to Venice, given that *omnia iura, qua habebat dominus imperator* had now devolved upon the doge.<sup>2</sup> Further, with respect to the problem which had arisen regarding who were to be considered permanent inhabitants of a particular place—since it was from these that the 130 clerics of the archbishopric had to be elected—the doge’s reply was the following: a permanent inhabitant was that man who had moved to a place with his family and his household effects, had settled there and observed the feasts of that place; if he left, then he was considered to be traveling, and when he returned to his family it was held that he had ceased to travel and that his permanent home and residence was there. In other words,

<sup>1</sup>The relevant body of archival evidence has been identified and discussed in detail by Z. Tsirpanlis, “Κατάστιχο ἐκκλησιῶν καὶ μοναστηριῶν τοῦ Κοινοῦ” (1248–1548). Συμβολή στή μελέτη τῶν σχέσεων Πολιτείας καὶ Ἐκκλησίας στή βενετοκρατούμενη Κρήτη (Ioannina, 1985); idem, “Νέα στοιχεῖα γιὰ τὴν ἐκκλησιαστικὴ ἱστορία τῆς βενετοκρατούμενης Κρήτης (13ος–17ος αἰ.) ἀπὸ ἀνέκδοτα βενετικά ἔγγραφα,” Ἑλληνικά 20 (1967), 42–106; idem, “Ἀνέκδοτη πηγὴ γιὰ τὴν ἐκκλησιαστικὴ ἱστορία τῆς βενετοκρατούμενης Κρήτης (cod. Marc. Lat., cl. IX, no. 179, coll. 3284),” Κρ.Χρον. 22.1 (1970), 79–98, from whose studies I have drawn the material used in this paper.

<sup>2</sup>Tsirpanlis, “Κατάστιχο,” 38–48, 294 (doc. 238).

the Venetian authorities, in order to answer these needs, applied a clause from the Justinian law code.<sup>3</sup>

The reference to practice which applied in *tempore Grecorum* is to be seen not only in the case of this dispute between the church and state, but in other instances as well. That Byzantine law was applied alongside Venetian law in Crete can be seen clearly in the text of the treaty signed between Venice and the powerful Cretan rebel leader Alexios Kallergis in 1299.<sup>4</sup> This treaty, which brought to an end the longest and most important rebel movement of the Cretan aristocracy against Venice, was drawn up in Greek and Latin and contains thirty-three articles, some of which constitute clear evidence for the survival of Byzantine institutions on the island. For instance, besides the return of land which had belonged to him before the rebellion,<sup>5</sup> Kallergis was given further new land by the Venetian state for a period of fifty-eight years *ad affectum* (πακτωτικῶς in the Greek text).<sup>6</sup> This is precisely the implementation of ἐμφύτευσις ἐπὶ τρισὶ προσώποις (i.e., for three generations), which constituted a basic form of granting land in the Byzantine period.<sup>7</sup> Furthermore, the Byzantine institution of *dendroktesia* was recognized in this treaty, with an explicit reference to the sharing of the yield between a landowner and the cultivator, in the case where the latter planted vines or trees on the land of the former;<sup>8</sup> the institution of *antitopia* was also recognized, which, along with that of *dendroktesia*, is mentioned in the *Ecloga*. In particular, the article of the treaty referring to the *antitopia* constitutes a recognition of the partial application of the institution: in the *Ecloga*, he who built a mill on another's land, then had to concede in return to the landowner another piece of land; in the treaty of 1299, however, the owner of the land on which the mill was built, instead of having a new piece of land, was recognized as owning half the mill, while the other half belonged to the person who had built it.<sup>9</sup> Moreover, by the same treaty, the judicial authority of Kallergis was recognized, since it refers to both those sentences issued by him and to those of judges whom the Cretan *archon* had appointed to dispense justice.<sup>10</sup> In fact, a few years later, in 1311, the Venetian authorities of Crete exempted a monk, papa Nikolaos, from the obligation to return a book (*appellato Triodhi*) to a certain Konstantinaris, because it was proved that Kallergis had already judged that Nikolaos was not bound to this claim. And, as is recorded in the decision, in

<sup>3</sup>Ibid., 307 (doc. 242); Tsirpanlis, "Νέα στοιχεῖα," 54–56.

<sup>4</sup>C. D. Mertzios, "Ἡ συνθήκη Ἐνετῶν-Καλλέργη καὶ οἱ συνοδεύοντες αὐτὴν κατάλογοι," Κρ.Χρον. 3.2 (1949), 262, 292.

<sup>5</sup>It is worth noting that the terms *feuda* and *feudatus* in the Latin text are rendered as μοῖρες and μοιρατάρης, respectively, in the Greek text (Mertzios, "Ἡ συνθήκη," 266, 270, 271).

<sup>6</sup>νά ἐνεὶ κρατημένη ἡ αὐθεντία ποιήσε κατὰ δύναμιν τοῦ ποιήσε δοῦναι σοὶ αὐτάς πακτωτικῶς εἰς πέντε εἰς πέντε χρόνους μέχρι καὶ χρόνους πενήκοντα ὀκτώ . . . (Mertzios, "Ἡ συνθήκη," 269).

<sup>7</sup>See Ch. Gasparis, "Ἡ γῆ καὶ οἱ αγρότες στὴ μεσαιωνικὴ Κρήτη (13ος–14ος αἰ.)," II (Ph.D. diss., Rethymno, 1986), 253, 290 n. 54 (including relevant bibliography).

<sup>8</sup>ἐάν τις φυτεύσει ἀμπέλι ἢ δένδρα ἐπάνω εἰς γῆν ἐτέρου, νά ἔχει ὁ αὐθέντης τῆς γῆς τό ἕμισ καὶ τό ἕτερον ἕμισ ἐκεῖνοι ὅπου τό φυτεύσῃ . . . (Mertzios, "Ἡ συνθήκη," 272; cf. N. Pantazopoulos, Ρωμαϊκὸν δίκαιον ἐν διαλεκτικῇ συναρτήσῃ πρὸς τό ἑλληνικόν, fasc. 2 [Thessalonike, 1979], 46).

<sup>9</sup>ἐάν τις ἐποίησεν μυλοστάσι ἐπάνω εἰς γῆν ἐτέρου ὁπόποτε οὐκ ἐγεννήθη, νά εἶται τό ἕμισ ὁ αὐθέντης τοῦ τόπου καὶ το ἕτερον ἕμισ ἐκεῖνος ὅπου ἔκαμεν τό μυλοστάσι (Mertzios, "Ἡ συνθήκη," 272–73; cf. Pantazopoulos, Ρωμαϊκὸν δίκαιον, 47).

<sup>10</sup>ἵνα πᾶσαι αἱ ἀποφάσεις ἃς ἐποίησες σοὶ καὶ οἱ κριτάδες σου νά ᾧσι στερεαί (Mertzios, "Ἡ συνθήκη," 272; cf. Pantazopoulos, Ρωμαϊκὸν δίκαιον, 46–47).

accordance with the treaty between Venice and Kallergis, all the sentences pronounced by him and his judges remained valid.<sup>11</sup>

The evidence of these official Venetian documents cannot be assessed, however, in isolation from the general historical background to which it belongs. It is clear that in the treaty between Venice and Kallergis, which in practice secured the privileges and rights of the local *archontes*, it was the powerful rebel who set the terms. Here, therefore, Venice was forced to recognize Byzantine institutions and to face the situation in a conciliatory climate by satisfying the demands of a rebel. It is also clear that it was in Venice's interest in its dispute with the church to seek to defend its rights on a basis that was rooted in *tempore Grecorum*. Regardless of the political expediency with which the documents are related, they pose the question of the preservation of the Byzantine tradition in the largest and most important of Venice's possessions in the eastern Mediterranean.

The sources of the law system applied in Venetian Crete are listed in order of rank in the *Capitularium* of the judges, drawn up in the second half of the thirteenth century.<sup>12</sup> In reality it is a *de verbo ad verbum* copy of the list of sources cited in the well-known *Statuta Venetorum*, the first codification of Venetian law initiated at the request of the doge Giacomo Tiepolo in 1242. This observation is not without significance.<sup>13</sup> Tiepolo had not only been the first duke of Crete, but was also the man who had laid the foundations of the administrative organization of the island.<sup>14</sup> The Venetian *Statuta* express the political vision of the doge based on the idea that the greater *dominio* which Venice had embraced since the Fourth Crusade ought to have a cohesive framework that could be built on the unifying structure of a legal system. This political idea was transferred to Crete and is reflected in the *Capitularium* of the judges.<sup>15</sup>

According to the *Capitularium*, during the conduct of their duties the judges were to apply four sources of law. The first in order of authority was the Venetian *Statuta*; the second was the referral to the judgment of previous similar cases (*de simile ad simile*); the third was the *consuetudo*; and the last was the *bona conscientia*.<sup>16</sup> Under these circumstances it is obvious that the judges dispensed justice by applying Venetian legislation. Just one exception is mentioned in the *Capitularium*, and this concerns the judges *prosopii* who had to sit in judgment on cases to do with dowries *iuxta usum Grecorum*.<sup>17</sup> This last article

<sup>11</sup> *et per pactum factum dicto Alexio per signoriam sententie late per ipsum et suos iudices, tempore dicte guerre, debebant esse firme* (Tsirpanlis, "Κατάστιχο," 170 [doc. 84]).

<sup>12</sup> *Das Archiv des Herzogs von Kandia*, ed. E. Gerland (Strasburg, 1899), 93–95, 98–100; cf. Sp. Theotokis, "Τά καπιτουλάρια της βενετοκρατούμενης Κρήτης, 1298–1500," *Επ. Έτ. Κρητ. Σπ.* 4 (1941), 124 ff (summary in Greek translation).

<sup>13</sup> See G. Cozzi, "La politica del diritto nella repubblica di Venezia," *Stato, società e giustizia nella repubblica veneta, sec. XV–XVIII* (Rome, 1980), 32–33.

<sup>14</sup> *Ibid.*, 29; cf. E. Santschi, *La notion de "feudum" en Crète vénitienne, XIIIe–XVe siècles* (Montreux, 1976). For the career of Tiepolo before he rose to the office of doge, see also Ch. A. Maltezos, "Η μεταφορά της έδρας της Βενετίας στην Κωνσταντινούπολη: Παράδοση και πραγματικότητα," *Byzantium and Europe: First International Byzantine Conference, Delphi, 20–24 July 1985* (Athens, 1987), 205–8.

<sup>15</sup> Cozzi, "La politica," 28–29.

<sup>16</sup> Gerland, *Das Archiv*, 93; cf. E. Santschi, "Aspects de la justice en Crète vénitienne d'après les Memoriali du XIV siècle," *Κρ. Χρον.* 24.2 (1972), 307; eadem, "Quelques aspects du statut des non-libres en Crète au XIVe s.," *Θησαυρίσματα* 9 (1972), 107–10.

<sup>17</sup> Gerland, *Das Archiv*, 98; cf. Cozzi, "La politica," 33.

raises a number of questions. Firstly, the name of the judges who resolved differences concerning Greeks and Jews—*iudices prosopii, prosoporum, de prosopio, de prosopia*—shows Greek descent.<sup>18</sup> Secondly, their *Capitularium* contains Greek terms such as *podocopium* (ποδοκόπιον) and *zuluchi* (τζουλούκωνες).<sup>19</sup> Thirdly, it is not specified whether the term *repromissa*, meaning "dowry" in the Venetian dialect,<sup>20</sup> covers the whole of the dowry system or whether this term refers to a particular legal transaction such as, for example, an antenuptial donation or a *donatio propter nuptias*.<sup>21</sup> Furthermore, in a list of officials of 1340, we come across two scribes *ad curiam petitionum et Grecorum*. This is the court of the judges *de petizion* whose task it was to settle cases concerning guaranties and pledges. But how should we interpret the reference *et Grecorum*? Even if we assume that these judges tried cases between the indigenous inhabitants of the island, why would they then put the Greeks in a separate category if they were implementing, as would seem to be the case, Venetian law?<sup>22</sup> Whatever the case, the official legislative articles refer exclusively to Venetian law, except for the settlement of cases that dealt with dowries where, as we have seen, the *usus* of the Greeks was applied.

While the island—the other Venice in the Levant as the Venetians proudly termed it<sup>23</sup>—was governed by Venetian laws (*nostris legibus et statutis est gubernata*, according to a decree of the Grand Council),<sup>24</sup> the records often refer to the terms *consuetudines terre, usus, leges, mos, cursus et ordines terre*.<sup>25</sup> This terminology recalls Byzantine tradition and practice, in other words, surviving or latent elements of Byzantine law. The problem of the continuity and discontinuity of Byzantine institutions in the Greek lands that comprised the Latin Romania following the Fourth Crusade has been a key object of research in recent years.<sup>26</sup> In Crete, which came under Venetian rule directly from the Byzantines without any intervening Frankish period, the survival of Byzantine institutions can be seen on the one hand in the sphere of land ownership—above all in the methods of granting land and the economic obligations of peasants toward the feudal lords<sup>27</sup>—and

<sup>18</sup>See Ch. A. Maltezos, "Ιστορία της βενετοκρατούμενης Κρήτης: Ζητήματα έρευνας," Πεπραγμένα του Ζ' Κρητολογικού Συνεδρίου, forthcoming. Cf. also N. Jorga, "Documents concernant les Grecs et les affaires d'Orient tirés des registres de notaires de Crète," *RHSEE* 14 (1937), 94 (*zudexi de Prosopia*).

<sup>19</sup>Maltezos, "Ιστορία"; cf. M. Cortelazzo, *L'influsso linguistico greco a Venezia* (Bologna, 1970), 317–18, 338 (v. *podocopium, zulucus*).

<sup>20</sup>See E. Besta, *Il diritto e le leggi civili di Venezia fino al dogado di Enrico Dandolo* (Venice, 1900), 80–85; G. Zordan, "I vari aspetti della comunione familiare di beni nella Venezia dei secoli XI–XII," *Studi Veneziani* 8 (1966), 129.

<sup>21</sup>Cozzi, "La politica," 33. For the differences between Byzantine and Venetian law with regard to the institution of the dowry, see J. T. Visvizi, "Τινά περί των προικίων έγγραφων κατά την Βενετοκρατίαν και την Τουρκοκρατίαν," Έπετηρίς του Κέντρου Έρευνας της ιστορίας του ελληνικού δικαίου 12 (1965), 52, and Zordan, "I vari aspetti," 128 f.

<sup>22</sup>F. Thiriet, *La Romanie vénitienne au Moyen Age*, 2nd ed. (Paris, 1975), 241.

<sup>23</sup>*alia civitas Venetiarum apud Levantem*: F. Thiriet, *Régestes des délibérations du Sénat de Venise concernant la Romanie*, III (Paris-The Hague, 1961), 205–6 no. 2994; cf. Ch. A. Maltezos, "The Historical and Social Context," in *Literature and Society in Renaissance Crete*, ed. D. Holton (Cambridge, 1991), 20.

<sup>24</sup>Cozzi, "La politica," 33 n. 5.

<sup>25</sup>Santschi, "Aspects," 308 f; eadem, *Régestes des arrêts civils et des mémoriaux (1363–1399) des archives du Duc de Crète* (Venice, 1976), xxxii; Cozzi, "La politica," 34.

<sup>26</sup>Important for this issue is the study by D. Jacoby, "From Byzantium to Latin Romania: Continuity and Change," in *The Latins and Greeks in the Eastern Mediterranean after 1204*, ed. B. Arbel, B. Hamilton, and D. Jacoby (London-Totowa, 1989), 1–44.

<sup>27</sup>See Gasparis, "Η γη και οι αγρότες," and M. Gallina, *Una società coloniale del trecento: Creta fra Venezia e Bisanzio* (Venice, 1989).

on the other hand in the tax system, though this was applied with various alterations for Venetian needs.<sup>28</sup> The phenomenon, however, of the continuity or break in the Byzantine tradition in these spheres can be located usually on the surface of the social system, and, consequently, it is relatively easy to discern. So what exactly happens, and how is it possible to shed light on structures surviving in the social substratum that travel their own hidden course?

The examples which follow are divided into two categories, and are characteristic of the aspects of this issue. The first concerns instances of the continuity or break of elements both of common law and of simple local usage. The second concerns cases where elements of continuity can be seen though concealed behind a new kind of social organization.

The terms *consuetudo* and *usus* are to be found usually in documents which are related to the status of land, chiefly in contracts for the working or conceding of land, and they concern either the forms of landholding or the obligations of the peasants. The Venetians took the custom of the region or the village into consideration, when relevant cases were brought before the courts. In 1391, for instance, Iacobus Mudacio and the three de Portu brothers, sons of a certain Stamati, found satisfaction at the courts simply by invoking the *gonicharia tradicio* (the tradition concerning hereditary possession), which applied in Crete. According to their report, in 1375 Stamati de Portu granted to Michael Dimitropulo, called Langopulo, and his family eight *mouzouria* of land and vines in the village of Gurnes in return for a yearly payment, to be made every August, of a pair of leather gloves. After the death of their father, the de Portu brothers sold to a certain Mudacio two *serventerie* in the same village which also included the eight *mouzouria* that had been conceded to Dimitropulo, since, as they claimed, the granting of this land had been conducted irregularly because *tradicio* had not been observed. For, they said, not only did their father receive his pair of gloves every year, but he also took a third of the yield of the land which he had granted. And, even more importantly, the initial granting of the land had not been preceded, as it should have been, by a public announcement. The plaintiffs sought the annulment of the deed of the grant of land, the court decided in their favor, and the eight *mouzouria* were given to Mudacio.<sup>29</sup> The decision therefore was based on *tradicio*.

Similar are examples which concern the obligatory seasonal labor of the peasants, whose contracts were usually accompanied by the note *secundum usum* or *secundum consuetudinem illius contratte*. In 1304 Dimitri Siriolo undertook to plant on land, which had been conceded to him by Andrea Cornario, vines which he was to *çerpire*, *çapare*, *scafiçare*, *catavoliçare et eam lachiçare secundum usum ipsius loci*.<sup>30</sup> The same obligation was undertaken by Michael Mendrino and his wife Agnes in 1357 *secundum consuetudinem illius contratte*,<sup>31</sup> while *secundum usum* Maria Verivena had to observe the system of letting land lie fallow (*iariçare*) according to the contract of labor which she agreed to with *ser* Petro Ialina in 1366.<sup>32</sup> Cases where these basic obligations were ignored by the peasants seem often to

<sup>28</sup> Jacoby, "From Byzantium," 14 ff.

<sup>29</sup> Santschi, *Régestes*, 306–7 no. 1382.

<sup>30</sup> *Pietro Pizolo notaio in Candia*, II: 1304–1305, ed. S. Carbone (Venice, 1985), 131 no. 979. For these obligations and the meaning of the terms, see Gasparis, "Η γη και οι αγρότες" I, 130 f; Gallina, *Una società*, 52–54.

<sup>31</sup> Gasparis, "Η γη και οι αγρότες," III, 638.

<sup>32</sup> *Ibid.*, 652.

have reached the courts, and either the *gastaldio* or the *Partitores Communis* were charged with investigating the cases. In 1386 the *Judices proprii* exempted Marco de Valdagno from paying a fine of 25 hyperpyra which had been imposed on him because he had failed to cultivate the vineyard which he had been granted by Johannes de Torcello. He was exempted because the *Partitores Communis* ascertained that the vines had indeed been cultivated but that they had not been hoed simply because of rain.<sup>33</sup> Again, in 1368 Michael Amuriano was absolved from the demand of Laurentius de Maripero that he work in a vineyard in the village of Scalani, because, as was confirmed by an investigation carried out *in situ* by the *gastaldio*, Johannes Marino, the vines had been destroyed, and it was impossible to maintain them in good condition.<sup>34</sup>

From the meager, though precious, evidence which can be gleaned from the Venetian documents for the situation in Crete prior to Venetian domination, there is that which refers to the obligations due from the church to the emperor. We learn that the Orthodox archbishop of Crete paid a yearly *akrosticho* of 50 *manuelata*, as well as other taxes, to the scribes (*scribanis*) and Byzantine dignitaries (*capitaneis*) of the island. The archbishop's men also offered services, such as wood-cutting and the transport of wood down to the coast for boat construction and repairs to warships. This was in fact a tax for *katergoktesia*. Moreover, for the feast of St. Titus (25 August) the archbishop received and entertained the duke and his court in the bishop's palace.<sup>35</sup> If we compare the above taxes with those that were applied in the early years of Venetian rule, we can see that the dues which went to the Venetian duca and other Venetian dignitaries, equivalent to those that were paid to the Byzantine catepan and dux, continued to be paid at least up until 1255 by the monasteries that had formerly belonged to the emperor but which had now devolved to Venice. In this year, by decision of the Grand Council, it was forbidden for the duca and his counselors to accept gifts from the Orthodox imperial monasteries.<sup>36</sup>

Included among the dues which the Byzantine dignitaries received from the Cretans must have been also the *proskynetikon* or *proskynetikon*, which we find in a document translated from Greek into Venetian as *inclinatio*. This document, dated to the second decade of the fourteenth century, is a petition from the inhabitants of Candia to the doge of Venice, complaining of the miserable condition into which the population had fallen because of heavy taxation. Of the various obligations, mention is also made of the *inclinatio*, a tax most probably paid in money to the *castellani*. The fact that the *inclinatio* is not attested in later documents leads us to the conclusion that it had been abolished along with the other *regalie* that the duca received.<sup>37</sup> As far as the *katergoktesia* is concerned, it seems that the church ceased payment of this tax to Venice, although it had been an obligation in Byzantine times. It is worth noting, however, that the clerics did pay the so-called *pedagium porte* or *datium porte*, a payment in money, which went to the repair and upkeep of the fortifications of Candia. This obligation was abolished in the early four-

<sup>33</sup>Santschi, *Régestes*, 251 no. 1148; cf. Gasparis, "Η γη και οι αγρότες," II, 295 n. 78.

<sup>34</sup>Santschi, *Régestes*, 10 no. 40; cf. Gasparis, "Η γη και οι αγρότες," II, 296 n. 80.

<sup>35</sup>Tsirpanlis, "Κατάστιχο," 42–43; cf. S. Borsari, *Il dominio veneziano a Creta nel XIII secolo* (Naples, 1963), 114 n. 30.

<sup>36</sup>G. Scaffini, *Notizie intorno ai primi cento anni della dominazione veneta in Creta* (Alessandria, 1907), 24–26.

<sup>37</sup>Ch. A. Maltezos, "Concessio Crete: Παρατηρήσεις στα έγγραφα διανομής φεούδων στους πρώτους Βενετούς αποίκους της Κρήτης," in Λοιβή, in memory of Andreas G. Kalokairinos (Irakleio, 1994), 122–23.

teenth century after the intervention of the feudatories.<sup>38</sup> Finally, with respect to the *consuetudo* that the archbishop receive the duke and his court on the feast of St. Titus, the Byzantine custom continued to be observed throughout the whole period of Venetian rule, and it was even written into the *ceremoniale*, the protocol that set out how the various feasts of the year would be carried out, and which Venetian dignitaries were expected to attend.<sup>39</sup>

We now come to the second category of examples referring to institutions, which, although they are not explicitly attested as Byzantine, certainly betray Byzantine origins. The field of study here is the organization of rural areas, which reflect clearly the phenomenon of continuity or change. It should be remembered that the village in Venetian Crete continued to constitute, as it had in Byzantine times, a rural unit. This is confirmed, firstly, by the use of terms such as *corpus casalis* and *comunitas* in cases which concerned villages; secondly, by the imposition of collective taxation; thirdly, by the maintenance of common facilities, such as water, roads, and pastureland, in the case of villages divided between two or more landlords; and, finally, by the right of preemption, by which the members of the community retained first right to lands being sold by their neighbors.<sup>40</sup>

There is evidence for a hierarchy among the inhabitants of the village, with the *presbyter* and the *curatora* at the head. In a series of decrees concerning the imposition of punishments, this hierarchy is plain to see. For example, in a resolution of 1393 concerning the escape of villeins, it was specified that the penalty for the feudator who harbored fugitive villeins was 100 hyperpyra, for the *presbyter* and the *curatora* 50 hyperpyra, and for any other inhabitant of the village 25 hyperpyra.<sup>41</sup> The *presbyter*'s role in the community is not known. It is quite possible that he was elderly, and for that reason he was given a title, or that he was a priest or perhaps the oldest of the priests in the community. The "nomikos" in the Byzantine village, the representative of the peasants of the village, was usually a priest.<sup>42</sup> With the meaning of representative we find the term *vetranus* in the Venetian Peloponnese during the fourteenth century. The *vetrani* were the appointed village elders, they constituted the link between the state authorities and the inhabitants, and they carried out duties of the officials.<sup>43</sup> When the chancellor of Coron went to the village of Monista and there fell in love with Erini, the daughter of Nicola Liva, he ordered the *vetrano papa*, Çan Siada, to lead the unfortunate girl to his court. The *vetran* refused to carry out the order, but, threatened by the chancellor (*se tu no vas tu averas lo maldie*), he was finally compelled to obey, taking and leading Erini to the Venetian with the assistance of two other inhabitants of the village.<sup>44</sup>

<sup>38</sup>See Tsirpanlis, "Κατάστιχο," 51.

<sup>39</sup>A. Papadaki, *Θρησκευτικές και κοσμικές τελετές στη βενετοκρατούμενη Κρήτη* (Rethymno, 1995), 21 n. 11, 73 n. 23, 205.

<sup>40</sup>Gasparis, "Η γη και οι αγρότες," I, 70 ff.

<sup>41</sup>Gasparis, "Η γη και οι αγρότες," I, 98 n. 20; cf. also Jacoby, "From Byzantium," 5–6 (where a characteristic example of social stratification based on the scale of penalties is to be found).

<sup>42</sup>Gasparis, "Η γη και οι αγρότες," I, 99 n. 20; A. E. Laiou, *Peasant Society in the Late Byzantine Empire: A Social and Demographic Study* (Princeton, N.J., 1977), 63.

<sup>43</sup>Ch. Hodgetts, "Venetian Officials and Greek Peasantry in the Fourteenth Century," in *Καθηγήτρια: Essays Presented to Joan Hussey for her 80th Birthday* (Porphyrogenitus, 1988), 483.

<sup>44</sup>*Ibid.*, 483, 497–98.

Although there is no corresponding evidence for Crete, it is clear that the role of the *presbyter* was the same as that of the *vetranus* in the Peloponnese. If the *presbyter-vetranus* was the link between the authorities and the inhabitants of the village, the *curatora* was the link between the peasant and the feudator. He was elected by the latter from among the inhabitants of the village or from among other trustworthy persons regardless of whether they were of the same village. He was paid a yearly salary, which could also be a specified quantity of produce, and his task was to settle issues which concerned the land and the feudator, the collection of taxes, and the granting of land in the name of the feudator. He also helped state officials in other matters, again concerning the land, such as the inventory of vineyards, with the names of the owners and the cultivators, in order to exact the corresponding tax.<sup>45</sup> In a notarial deed of appointment of 1390, the *curatora*, besides being obliged to collect taxes, which is expressly stated, undertakes to perform all the duties that a *curatora*, *ut est mos*, had.<sup>46</sup> This phrase suggests that the areas of his jurisdiction were so widely known that it was not necessary to refer to them all in detail. In sum, it goes back to an older practice preserved by custom throughout the whole village.

The Venetian term *curatora* recalls, of course, the Byzantine κουράτωρ, which meant the overseer, the guardian usually of underage children or the administrator of imperial land property.<sup>47</sup> Most probably there existed *kouratores* in the latter sense of the term in Byzantine Crete, charged with the task of administering land property.<sup>48</sup> It is therefore quite likely that by the time of Venetian domination, the Byzantine κουράτωρ had given his name to the representative of the feudator and his overseer who managed the revenues of the village which constituted the core of his fief. With the *curatora*—though downgraded and deprived of his prestige—on the one hand, and the *presbyter* on the other, the village in the period of Venetian rule appears to have preserved forms of social organization which cannot have been very different from those which had existed in Byzantine times.

Mention should be made finally of an interesting aspect of social expression to be found in the village community which must also derive from the Byzantine period: the phenomenon of collective and communal patronage which we come across in church inscriptions of the fourteenth and fifteenth centuries. The churches of the Archangel Michael in Doraki Monophatsiou, St. Nikolaos in Maza, St. Anna in Kritsa, and St. Paraskevi in Kitiros Selinou were built or restored with the participation of the entire village to which they belonged, and, in the case of the latter, with the contribution of several villages belonging to the same *tourma*.<sup>49</sup> This practice, which we also find in nearby Mani

<sup>45</sup> For the *curatora*, see Gasparis, "Η γη και οι αγρότες," I, 71.

<sup>46</sup> Ibid., 99 n. 22.

<sup>47</sup> A. Christophilopoulou, Βυζαντινή Ιστορία, II, 1:610–867 (Athens, 1981), 280; cf. Cortelazzo, "L'influsso," 284.

<sup>48</sup> For the *basilikai episkopeis* in Crete, see N. Oikonomides, "Η διανομή τῶν βασιλικῶν ἐπισκέψεων τῆς Κρήτης (1170–1171) καὶ ἡ δημοσιονομικὴ πολιτικὴ τοῦ Μανουήλ Α΄ Κομνηνοῦ," Πεπραγμένα τοῦ Γ΄ Διεθνoῦς Κρητολογικοῦ Συνεδρίου, III (Athens, 1968), 195–201, repr. in idem, *Documents et études sur les institutions de Byzance, VIIe–XVe s.* (London, 1976), art. xvii, and N. Svoronos, "Τὸ νόημα καὶ ἡ τυπολογία τῶν Κρητικῶν ἐπαναστάσεων τοῦ 13ου αἰ.," Σύμμεικτα 8 (1989), 2–3.

<sup>49</sup> S. Kalopissi-Verti, *Dedicatory Inscriptions and Donor Portraits in Thirteenth-Century Churches of Greece* (Vienna, 1992), 36 and n. 100.



from the twelfth century onwards,<sup>50</sup> was adopted by the Venetian feudators who worked alongside the villagers to build the churches. Thus, in 1310 Marino Lisi built the church of the Virgin in the village of Steriano on the ruins of an older church with the help of the villagers. In 1308 the feudator Rogerius de Rogerio rebuilt, again with the help of the villagers, the church of the Virgin which had been destroyed by earthquake in the village of Agio Silla.<sup>51</sup> This evidence, which is to be found in documents, recalls the dedicatory inscription of the church of St. John Prodromos at Megali Kastania in the Messenian Mani, dated to the late twelfth or early thirteenth centuries, and which mentions the communal donation from the contribution of the *prokritoi* and the common people (κοινὸς λαός).<sup>52</sup> By showing an interest in erecting or rebuilding Orthodox churches within their fiefs, the Venetian lords were looking to enhance the profitable functioning of the village. Isolated in the villages and indifferent to the religious disputes with the Orthodox, they thereby strengthened their position and prestige among the peasant community,<sup>53</sup> most probably copying the customs of local landlords.

The difficulty in determining whether an institution had been transplanted from Venice to Crete or whether it resulted from the convergence and fated mingling of Byzantine and imported Venetian institutions has already been pointed out by many scholars. This difficulty is particularly apparent in the case of a series of Greek notarial records of the fourteenth and fifteenth centuries. The subject of these documents is the division that a father agrees to make between his property and the corresponding share of his son, in order to make the son economically independent and capable of conducting legal transactions. In short, it is a deed granting emancipation (*emancipatio*).<sup>54</sup> In Byzantine law, the release of paternal power by legal emancipation seems to have fallen into disuse. In contrast, in Venice it was provided for both by legislation and by practice. The deed was passed without intervention from the authorities before a notary who since 1278 had been obliged by a decision of the Grand Council to enter a copy of the deed into a special register of the *Procuratia*.

The similarities and closely corresponding language between these Greek documents and documents (concerning the same matter) that originate from Venice and are written in Latin show that the Greek follows and in many parts faithfully translates the Latin. Therefore from the point of view of both content and phraseology, it can be inferred that this deed was established in Venetian Crete in accordance with the regulations of Venetian law. Nonetheless there are some peculiarities which justifiably give rise to questions. One cannot know, for example, whether phrases such as εὖ καὶ τελείως, πρῶτα καὶ ἔσχατα, πρὸς ὀφλησιν ὀφλημάτων δυστυχεστάτων are bad translations from the Latin, remnants of Byzantine phraseology, or the result of the merging of Greek and Venetian terminology.<sup>55</sup> Also characteristic are the phrases κατὰ τὴν τάξιν τῶν ἐξουσιαστών, κατὰ τὴν τάξιν τῶν Βενετῶν or ὡς καθὼς εἶναι συνήθεια τῆς ἡμῶν Ῥωμαϊκῆς γενεᾶς. The first

<sup>50</sup>Ibid., 36 n. 99.

<sup>51</sup>Tsirpanlis, "Κατάστιχο," 62, 64, 82 (docs. 203 I, 211 II).

<sup>52</sup>F. Drossoghianni, Σχόλια στίς τοιχογραφίες τῆς ἐκκλησίας τοῦ Ἁγίου Ἰωάννου τοῦ Προδρόμου στὴ Μεγάλη Καστάνια Μάνης (Athens, 1982), 216; cf. Kalopissi-Verti, *Dedicatory Inscriptions*, 36.

<sup>53</sup>Tsirpanlis, "Κατάστιχο," 82.

<sup>54</sup>The documents have been published and studied in detail by M. Manoussacas, "Ἑλληνικά νοταριακά ἔγγραφα (1374–1446) ἀπὸ τὰ Ἀττι ἀντίχτι" τοῦ ἀρχείου τοῦ Δούκα τῆς Κρήτης," *Θησαυρίσματα* 3 (1964), 73–102.

<sup>55</sup>Ibid., 85 n. 2.

two are entered in the records in connection with the penal clause prescribed for the father should he break his promise; the second refers to the custom whereby the mother commemorates her children should they die.<sup>56</sup> Peculiar also, from the point of view of legal content, is the appointment, by the father, of the mother as guardian of underage children: she had the right to manage the property of the children until they came of age, and to inherit from them if they died before coming of age.<sup>57</sup> These peculiarities probably just constitute deviations, but they may also hint at more complex legal problems. For here we may not be dealing simply with *emancipatio*, but rather with the Greek νέμησις or with the advance of the inherited share to the son when he attains ἰδιογνώμονα βίον.<sup>58</sup> Judging by these documents, it is clear that in the sphere of family law there must have been several instances of deeds which, although they appear to be of Venetian origin, conceal elements of Byzantine law.

By officially rejecting Byzantine law, Venice aimed at forestalling any attempts by the Byzantines at acquiring legal rights on Crete, especially after the recapture of Constantinople in 1261. However, there was no reason why Venice should disallow some forms of Byzantine practice to continue, so long as they did not conflict with the interests of the *status quo* it had established for its *dominium* or, indeed, if they actually served its interests. Inexperienced as it was in the management of land, the Serenissima did not hesitate to lean on Byzantine rural organization, and also, when its interests were endangered by disputes with the Catholic Church, to support itself on the Byzantine past in order to give its position a legal basis. As for the mass of the local population, it should be noted that the memory of Byzantium was used by the representatives of the local aristocracy as a tool of ideological propaganda. The spread and dissemination of this propaganda is described eloquently in the famous work of the Florentine Catholic priest Cristoforo Buondelmonti, who visited Crete in 1415.<sup>59</sup>

In a lively "reporter's account," as his work has poignantly been called,<sup>60</sup> Buondelmonti offers a realistic picture of contemporary Crete. At the same time he preserves, in his recording of oral accounts heard by himself, a Byzantine motif which had been constructed to declare the utopian bond that existed, through the *archontes*, between Crete and the empire.<sup>61</sup> The pattern behind the argument went as follows. Firstly, the island before Venetian occupation had enjoyed a virtuous administration. This belief is expressed by a Cretan monk who, while speaking about Kallergis, did not miss the opportunity to say that this *archon*, who had been sent to Crete in the past by the Byzantine emperor, had governed the islanders with such love and devotion that even in the monk's lifetime people considered the descendants of Kallergis to be gods rather than men. He

<sup>56</sup> Ibid., 84–85, 88 (doc. 1), 91 (doc. 6), 94 (doc. 10), 97 (doc. 15), 99 (doc. 17).

<sup>57</sup> Ibid., 84–85, 98–99 (doc. 17). The rights of the mother are the same as those applied in Byzantine law (*Ecloga*, ed. L. Burgmann, *Das Gesetzbuch Leons III. und Konstantinos' V.* [Frankfurt, 1983], II.5).

<sup>58</sup> Ibid., 85.

<sup>59</sup> Cristoforo Buondelmonti, *Descriptio insule Crete et liber insularum*, cap. XI: *Creta*, ed. M.-A. Van Spitael (Irakleio, 1981).

<sup>60</sup> Ένας γύρος της Κρήτης στά 1415: Χριστόφορου Μπουοντελμόντι Περιγραφή της Κρήτης, preface by St. Alexiou, trans. M. Aposkiti (Irakleio, 1983), 9.

<sup>61</sup> F. Luzzati Laganà, "La funzione politica della memoria di Bisanzio nella *Descriptio Cretae* (1417–1422) di Cristoforo Buondelmonti," *Bullettino dell'Istituto Storico Italiano per il Medio Evo e Archivio Muratoriano* 94 (1988), 403 ff.

went on to say that the whole island trusted in them, and that whatever even the youngest of that family were to command, the Cretans would obediently carry it out with all their heart.<sup>62</sup> Secondly, the power with which the *archontes* were surrounded stemmed from the Byzantine period. The Byzantine emperor had sent Kallergis to the island, as well as the twelve *archontopoula* who were descended from the most illustrious Byzantine families of Constantinople. Thirdly, there was only one emperor and consequently only one legal authority from whom the power of the local *archontes* could derive.<sup>63</sup> The supremacy of the *archontes* and the purity of their stock constituted one of the basic elements of the collective Cretan memory. These families, it is stated in the text, intermarried so that the blood of the old nobility did not become mixed with foreign stock. And when a child was born to these families, they talked of him only in terms of praise and honor, and they henceforth addressed him as “lord so-and-so” until his dying day. What is more, in order that they might not be arrested en masse by the Venetians, they never lived all in the same place, and they always offered refuge to exiles or outlaws of all classes who may have come to their district.

Byzantine phraseology is preserved intact in Buondelmonti’s text: Nikephoros Phokas is referred to as *chyr*, the *archontes* as *Romani*, Constantinople as *Poli urbs*, and Kallergis as *capitaneus*.<sup>64</sup> Impressive, too, in this account is the description of the social landscape of the interior of the island. This gives a totally different picture from that which we find in the official documents, most of which concern Candia and the villages around it. This population, according to Buondelmonti, who traveled around the island, lived in remote and inaccessible mountain areas, in villages and settlements recorded as *rura Romeorum*, without ever coming into contact with foreign elements. The regional *archon* thus constituted the only real power on which the peasant world could rely. The Byzantine idea, which the *archon* class promoted and disseminated in order to further its own political claims, appealed to the popular imagination and strengthened the client relationship of the masses with the *archontes*. It is no coincidence that in the agreements between Cretan rebels *archontes* and Venice, the former request and succeed in securing the right to grant enfranchisement to the peasants. The *archon* could thereby bind them morally to his person and so create strong personal bonds.<sup>65</sup>

The use of the Byzantine idea on the one hand, which strengthened the prestige and social influence of the *archontes*, and the isolation on the other, which characterized the rural population of the interior of the island over which Venetian rule was more theoretical than real, favored to a great extent the preservation (to use the phrase in the sources) τῶν συνηθειῶν τῆς Ῥωμαϊκῆς ἡμῶν γενεᾶς. It should therefore not be difficult to appreciate why the Cretans continued to mention the names of Byzantine emperors in the inscriptions on their churches, despite the passing of many years of Venetian rule. Even the anonymous poet who laments the fall of Constantinople to the Turks, sings of the last

<sup>62</sup> Van Spitael, *Buondelmonti*, 185–86; Luzzati Laganà, “Funzione,” 404.

<sup>63</sup> Van Spitael, *Buondelmonti*, 185, 187–88; Luzzati Laganà, “Funzione,” 419–20.

<sup>64</sup> Van Spitael, *Buondelmonti*, 185–89, 191; Luzzati Laganà, “Funzione,” 417–18. On Buondelmonti’s visit to the village of Meronas of Amari, the seat of the *archon* Matthaios Kallergis, see the discussion in the article by St. Alexiou, “Ἀρχαιολογικά καὶ ἱστορικά στοιχεία στὴν Περιγραφή τῆς Κρήτης τοῦ Buondelmonti,” *Φύλλα ἔπη εἰς Γ. Ε. Μυλωνᾶν* (Athens, 1989), 346–48.

<sup>65</sup> Svoronos, “Νόημα καὶ τυπολογία,” 11.

emperor asking the Cretans to cut off his head and bring it to Crete so that they may mourn him there.<sup>66</sup> If for Crete the fall of the Byzantine capital to the Turks did not have a major impact on the fate of its population, nevertheless, from the point of view of the Cretans' severance from the spiritual guardianship of the Byzantine Empire, 1453 obviously was a date of no small importance.

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<sup>66</sup>Cf. Ch. A. Maltezou, “Η Κρήτη στη διάρκεια της περιόδου της βενετοκρατίας (1211–1669),” *Κρήτη: Ιστορία και Πολιτισμός*, II (Crete, 1988), 132–33. For the famous poem *Ἀνακάλυμμα τῆς Κωνσταντινόπολης*, claimed as both a Cypriot and a Cretan work, see D. Holton, “Cyprus and Cretan Renaissance: A Preliminary Study of Some Cultural Connections,” *Ἐπετηρίς Κέντρου Ἐπιστημονικῶν Ἐρευνῶν Κύπρου* 19 (1992), 253.